IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

-

WRIT PETITION NO : 29366 of 1998

Between:

Ch. Pothi Reddy, S/o. yella Reddy, R/o. Vijayawada, Krishna Dist.

..... PETITIONER

AND

1 The Commissioner of Prohibition and Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition and Excise, Guntur.
3 The Station House Officer, Prohibition and Excise station, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction particularly one in the nature of Writ of Mandamus holding the action of Respondent No. 1' s order or Cr. No. 413/98/DPE/B2, dated 23.3.1998 for confiscation of petitioner's vehicle No. AHH 3857 as illegal, arbitrary and against the principles of natural justice.

Counsel for the Petitioner : MR.O.RAMESH

Counsel for the Respondents : GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER :

Heard the learned Counsel for the petitioner and the learned Government Pleader for prohibition and Excise appearing for the respondents.

Questioning the action of 2nd respondent-Deputy Commissioner of Prohibition and Excise, Guntur, in passing Orders in Rc.No.191/97/A4, dated 22-11-1997, confiscating the petitioner's vehicle bearing No.AHH-3857, without issuing him any notice, and also the action of 1st respondent-Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad in passing the orders in Cr.No.413/98/DPE/B2, dated 23-3-1998, confirming the order of 2nd respondent, dated 22-11-1997, the petitioner filed this writ petition.

The learned Government Pleader for Prohibition and Excise submitted that the matter relates to Section 8(b) of the Andhra Pradesh Prohibition Act, 1995 (for short "the principal Act"). She submitted that the Government has taken a policy decision to compound certain offences under the principal Act and in that direction, passed Andhra Pradesh Prohibition (Amendment) Act, 2000 (Act No.17 of 2000) which was published in the Andhra Pradesh Gazette Part IV-B-Extraordinary No.23, dated 29-4-2000; and also framed Rules called – The Andhra Pradesh (Compounding Offences) Rules, 2000 (for short "the Compounding Rules) by G.O.Ms.No.496, Revenue (Excise III), dated 25-7-2000, which was published in the Andhra Pradesh Gazette Extraordinary (Part II) Rules Supplement No.18, dated 27-7-2000. She further submitted that as per Rule 4 of the Compounding Rules, the Deputy Commissioner of Prohibition & Excise is empowered to compound those offences in which vehicles are involved and falling under sub-clause (i) of clause (b) of Section 8 of the principal Act. Thus, she submitted that the case of the petitioner be referred to

the 2nd respondent-Deputy Commissioner of Prohibition & Excise, for determination under the Compounding Rules.

Having regard to the above submission of the learned Government Pleader for Prohibition and Excise, and in view of the fact that the case of the petitioner falls within the Compounding Rules, I deem it appropriate to direct the petitioner to file an application seeking compounding of the offence with respect to the vehicle in question under the Compounding Rules before 2nd respondent-Deputy Commissioner of Prohibition and Excise, Guntur, within a period of one month from the date of receipt of a copy of this order, and on such filing, the 2nd respondent is directed to consider the same and pass appropriate orders thereon in accordance with law.

With the above observations, the writ petition is disposed of. No costs.

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N.V.RAMANA, J

Dt: 15-04-2005.

ajr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Prohibition and Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition and Excise, Guntur.

3 The Station House Officer, Prohibition and Excise station, Guntur.

4 Two C.Cs. to the GP for Prohibition & Excise, High Court buildings, Hyderabad. (OUT)

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